

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

EARL A.,

Plaintiff,

v.

CIVIL ACTION NO. 2:23-cv-00206

MARTIN J. O'MALLEY,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By *Standing Order* (Document 2) entered on March 15, 2023, this action was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On January 31, 2024, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 10) wherein it is recommended that this Court grant the Plaintiff's request to reverse the Commissioner's decision (Document 5), deny the Commissioner's request to affirm her decision (Document 8), reverse the final decision of the Commissioner, and remand this action pursuant to the fourth sentence of 42 U.S.C. § 405(g).

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by February 14, 2024, and none were filed by either party. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as

to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *see also Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (holding that district courts may adopt proposed findings and recommendations without explanation in the absence of objections).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge. The Court **GRANTS** the Plaintiff's request to reverse the Commissioner's decision (Document 5), **DENIES** the Commissioner's request to affirm her decision (Document 8), **REVERSES** the final decision of the Commissioner, and **REMANDS** this action pursuant to the fourth sentence of 42 U.S.C. § 405(g).

The Court **DIRECTS** the Clerk to send a certified copy of this *Memorandum Opinion and Order* to Magistrate Judge Tinsley, counsel of record, and any unrepresented party.

ENTER: February 20, 2024



IRENE C. BERGER

UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA